DEWAN'S MESSAGE TO THE COUNCIL FOR RECONSIDERATION OF THE TRAVANCORE MECHANICAL LIGHTERS (EXCISE DUTY) BILL WITH REFERENCE TO THE AMENDMENTS CARRIED BY THE COUNCIL IN RESPECT OF CLAUSES 2 AND 6.

President: The Chair has received a message from the Dewan in respect of the Travancore Machanical Lighters (Excise duty) Bill, which was passed by this House the other day. The message reads thus:—

"I have given careful consideration to the discussions of the Council on the Travancore Mechanical Lighters (Excise Duty) Bill, as passed by the Assembly. The variation made by the Council in regard to clauses 2 and 6 of the Bill seems scarcely justifiable. Not only are the provisions, as passed by the Assembly, necessary on the merits, but also, the acceptance of the variation would make the law according to the mechanical lighters different from that in regard to the matches. I therefore return the Bill to the Council under Section 22 of the Travancore Legislative Reforms Regulation II of 1108, for its reconsideration."

The Chair has also received a copy of the Bill with a certificate from the Government and the certificate from the Government reads thus:—

"Under Section 20 of the Travancore Legislative Reforms Regulation, II of 1108, the Government of His Highness the Maha Raja do recommend to the Council that it do pass the Bill in the form hereto annexed."

"And the annexure is the Bill in the form in which it was passed in the Assembly."

Now the motion before the House is "that in clause 2 (*a*) the following be added at the end:—

"Or which are declared by Our Government by notification in Our Government Gazette to be a manufactory for the purposes of this Regulation."

The motion was put to the vote of the House and carried.

Mr. S. Piraviperumal Pillai: I demand a poll. A poll was taken and the House divided as follows:—

AYES 12.

1. Mr. C. V. Chandrasekharan
2. „ R. Dhanukoti Pillai
3. „ M. K. Gopala Pillai
4. „ K. N. Kesava Pillai
5. „ C. Kumara Das
6. Rao Sahib Dr. N. Kunjan Pillai
7. Mr. Kayalam Parameswaran Pillai
8. Rao Bahadur A. Rengaswami Aiyar
9. Mr. Komilezhathu Sankaran
10. „ James Simpson
11. „ G. B. E. Truscott
12. „ E. P. Verghese

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NOES 13.

1.	Mr. V. S. Arumukham Pillai	9.	Mr. S. Piraviperumal Pillai
2.	,, K. Madhavan Pillai	10.	,, N. Ramakrishna Pillai
3.	,, M. N. Narayana Menon	11.	,, K. Sankaralingam Pillai
4.	,, K. P. Nilakanta Pillai	12.	,, Tariatu Kunji-tomman
5.	,, K. Padmanabha Panicker	13.	,, A. N. Viswanatha Pillai
6.	,, N. K. Padmanabha Pillai		
7.	,, P. Padmanabhan Tampi		
8.	,, M. N. Paramesvaran Pillai		

NEUTRALS 7.

1.	Mr. Kochikal P. Balakrishnan Tampi	5.	Mr. K. N. Kesavan Namputiripad
2.	,, M. Govindan	6.	,, K. Ramavarma Raja
3.	,, J. John Kattakayam	7.	,, Hajee Hasan Yacoob Sait
4.	,, C. M. Joseph		

President: For the motion 12; against the motion 13; and neutral 7.

It is a difficult position for the President now and for a second time in the annals of this House. Well in conformity with the message which has been conveyed by the Dewan regarding the importance of passing this measure in the form in which it was passed by one House, I give my vote in favour of the motion. The motion is therefore carried.

Mr. M. N. Paramesvaran Pillai: Then there will be only 13 in favour of the motion.

President: The President unfortunately has got a casting vote. Is that not correct?

Mr. Kayalam Paramesvaran Pillai: You have got a vote as presiding member of this House and a casting vote as Chairman.

President: The next motion is that the following be added as clause 6 of the Bill and the subsequent clauses be renumbered:—

"Our Government may by notification in Our Government Gazette prohibit absolutely, or with such exceptions as they think fit, the bringing of mechanical lighters into Travancore from the territory of any specified Prince or Chief in India."

Mr. M. N. Paramesvaran Pillai: Sir, I wish to say a few words in this connection. We have heard with care and attention the double message read to us now by the President,—the one sent by the Government and the other by the Dewan under Section 22 of the Regulation. By the message this House is asked to eat

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its own words and waive the amendments which it had made after due and deliberate consideration to Sections 2 and 6 of the Mechanical Lighters Bill. Those who were present on the occasion, when these amendments were discussed by this House, may well remember that the attention of the House was drawn by the Law Member to every one of the points now raised in this message and that it was after careful consideration of every one of these points that the House then exercised its decision in favour of the amendments. Is there anything now, I ask with great concern, in the present message which should influence this House to change its views? I do not think any case has been made out for a re-consideration of the question. I would, therefore, appeal to the honourable members of this House to pause and consider whether they will be acting in consonance with the diginity and self-respect of this House if they should change like chameleon according to the whims and caprice of the bureaucracy. Can it be said that we passed these amendments without bestowing adequate thought upon them? I do not think that this House will be morally blame-worthy of such a charge. There is no doubt that the amendments were adopted by this House after much consideration. Unless the House is satisfied that new and sufficient grounds not contemplated at the time of passing the amendments now exist, or that altered circumstances have taken place, it will not be justified in taking up a different stand from the one it had already taken in this matter. With these words I would oppose the proposal put from the Chair for re-consideration of the amendments.

Mr. S. Piraviperumal Pillai: Sir, this Bill was considered elaborately on its merits and as a result of a full debate we had the other day, it was found that clause 6 was not at all necessary for this Bill. I may for the benefit of the honourable members reiterate the reasons that prompted this House for deleting this clause. This clause reads "Government may by notification in our Government Gazette, prohibit absolutely, or with such exceptions as they think fit, the bringing of the mechanical lighters into Travancore from the territory of any specified Prince or Chief in India." In this Bill there is no prohibition to make imports from foreign countries. Why should we therefore insert this clause which prohibits imports from sister States in India. Our revenue cannot and need not be reduced if we impose a similar duty as on foreign imports. Further it would be ridiculous on the part of a sister State like ours to prohibit imports from other States. On these grounds and after mature consideration and due deliberation, honourable members of this House voted for the deletion of this clause and passed the Bill. Now, Sir, after what took place then nothing new has transpired. The Government do not

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[Mr. S. Piraviperumal Pillai.]

to agree with us for reasons not yet made known to us. Perhaps they think that their prestige and dignity are wounded inasmuch as this Bill is not passed as they brought it. If that be so, I ask the honourable members to feel that they also have got a prestige and self-respect and they should maintain what they said and throw this amendment away. With these words I appeal to the honourable members of this House and I ask all those members who voted in favour of the deletion of this clause to stick to their position.

Mr. K. P. Nilakanta Pillai : Sir, I also wish to draw the attention of the House to the present procedure adopted by the Government, presumably on the advice of the Law Member of this House. Sir, when a Bill has been passed by the Lower House and referred to this House, the Regulation, the Standing Orders and the Rules specifically say that this House is at liberty to move any amendment and carry it. Further, Sir, if amendments were carried by this House, clause 117 says that the Bill as amended shall be returned with a message asking the concurrence of the originating Chamber to the amendments That is the right procedure that ought to have been followed in this respect. Therefore I do not want any strong language to be used at this stage on the conduct of the Law Member in advising the Government to ask this Chamber to reconsider the amendments which this Chamber carried on the original Bill. The proper procedure ought to have been to send this Bill to the Lower House with a similar message and if that House refused to accept the amendments carried out by this House, then we could have understood the propriety of the Government in bringing back to this House the same Bill with the present message. So we could not now be accused that we were rather not quite alive to the situation that has now been created. Now, we do not take any responsibility at all for this procedure. The procedure followed is quite improper and this House is not in a position to reconsider its position, because the Law Member has not followed the procedure laid down by the Rules. On this ground I strongly recommend that this motion should not be accepted by this House.

Mr. N. Ramakrishna Pillai : Sir, a word of personal explanation. I believe I was one of those who voted against the amendment last time, but on a deliberate consideration of the amendment proposed this House thought it necessary to vote out the amendment. In the circumstances, therefore, the proper procedure would have been to send the Bill back to the Assembly for a reconsideration of the amendments made in this House and then it would have been time enough for this House to reconsider the enactment as passed by the Assembly. But in this instance, a different procedure was thought necessary and we are asked to

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reconsider the same proposals on grounds which have been fully considered on a former occasion. There are no new grounds which appear in the message of the Dewan and there are no grounds which could not have been properly considered on the occasion when the amendment was brought forward before this House. I therefore think it is not proper, it is not right that this House should reconsider or review the grounds which have already been traversed on the occasion when the amendments were made. I therefore oppose this motion.

Mr. Kayalam Paramesvaran Pillai: Sir, the main point that arises for the consideration of this House is the specific question put from the Chair namely whether the amendment should be accepted or not, and that, perhaps, is the only point. On this, I may remind the honourable members that this Bill like its sister measure—the Matches Regulation—owes its origin to the fact that Travancore has agreed with British India to impose an excise duty on mechanical lighters as on matches. In British India, the excise duty on mechanical lighters was imposed by an Act which laid down certain provisions. In pursuance of the agreement, that we have entere pinto with British India, to impose a like excise duty, we have to pass a law with like provisions; accordingly a Bill was placed before the Lower House on the lines of the Act enacted in British India, and that Bill was passed by the Lower House on the lines of the British Indian Act. Subsequently that Bill has been placed before this House for its concurrence. Now the first question to be considered is whether, we would be justified in adopting in Travancore a different procedure..... .....

Mr. M. N. Paramesvaran Pillai: May I know from the member whether this point was not pointed out by him on the former occasion when the Bill was considered?

Mr. Kayalam Paramesvaran Pillai: I refuse to answer before I finish the sentence.

Mr. M. N. Paramesvaran Pillai: Sir, a point of order whether it is proper for a member to say that he refuses to answer a question.

Mr. Kayalam Paramesvaran Pillai: Sir, what I was proceeding to say was that the honourable members must firstly consider whether this House will be justified in adopting a different provision in our law, a provision which is substantially different from that in British India, and whether there is any sufficient ground for adopting such a differential procedure.

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Mr. S. Piraviperumal Pillai: May I know from the Law Member whether the amendment passed with regard to the definition of manufactory, was not made with the sole purpose of making it conform to what was in the British Indian Act?

Mr. Kayalam Paramesvaran Pillai: Sir, I am now at clause 6. No doubt it is quite within the power of the House to adopt a differential provision here in this Bill, but the question is whether the House would consider the matter to be so very important that they should necessarily differ from British India in spite of the agreement between the Travancore Government and the British Indian Government. Upon this aspect of the question, it seems to me that the House did not sufficiently devote its attention. This very House passed a measure, in regard to matches, enacting a provision quite the same as this. Now I ask, while that is so, why a similar provision should not be incorporated in the Mechanical Lighters Bill. We are trying to pass a measure in consonance with a measure in British India, and I ask why there should not be an Act without a differing provision. Was any reason advanced to show why we should have a differential provision in our Bill? Was it not this very House which passed a measure in regard to matches with this identical provision? And are not matches things which we come into contact with every day? If such a provision could be tolerated in regard to matches, I ask what is the objection to that same provision being made in regard to mechanical lighters?

Mr. S. Piraviperumal Pillai: Sir, may I know from the Law Member whether mechanical lighters are manufactured in this country?

Mr. Kayalam Paramesvaran Pillai: That is exactly the point I am driving to. Sir, I shall not certainly use any hard words about this House, of which, moreover, I have also the privilege to be a member. Sir, I ask why this House made a provision in the matter of matches which are of everyday use and would not make the provision in regard to mechanical lighters which are but a mere possibility, even though by making the provision we extend the courtesy, to say the least, of acting in conformity with the British Indian provision?

Mr. M. N. Paramesvaran Pillai: May I know from the member whether it is not a fact that the Mechanical Lighters Bill was considered several months after the Matches Bill was considered and whether in the meantime the members could not have gained experience?

Mr. Kayalam Paramesvaran Pillai: Sir, I quite realise that the Mechanical Lighters Bill was considered by this House long after the time that it considered that the provision now in question was acceptable in regard to the matches. In regard to

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this Bill the House considers that the provision is not acceptable. Sir, I ask why? Is it wisdom dawning or something else? I could very well let the House have its mood, just to please it. But, Sir, there is the fact of the agreement between this Government and the British Indian Government. Further there must be some sound reason why there should be a differential provision in regard to mechanical lighters alone as compared with the matches. No reason was forthcoming and none is forthcoming now and none could. Therefore this is a matter which the House should reconsider. Sir, this House is a business body. Government are certainly prepared to change their views and accept for instance a verdict of this House. This House too acting as a business body should not allow itself to be swayed by considerations of prestige. There is no disgrace in reconsidering. There is only honour and dignity in doing so. I can certainly understand the meaning of the appeal of Mr. Piraviperumal Pillai, to look at the electorate, which he has to face very soon. But it seems to me that the House has a graver and more responsible duty of doing what it considers right on the merits without being influenced by vote-catching tactics.

Mr. S. Piraviperumal Pillai: Is not the Government standing before the electorate?

Mr. Kayalam Paramesvaran Pillai: Perhaps, but not in the sense that Mr. Piraviperumal Pillai hopes to do.

Mr. M. N. Paramesvaran Pillai: Does not the House affect the electorate?

Mr. Kayalam Paramesvaran Pillai: I do not know what is meant by the question. If the House follows Mr. Piraviperumal Pillai's appeal, the House may be doing wrong. But I am sure that the House would not allow itself to be swayed by considerations of the apprehended election. And after all the House will not be acting against the electorate. Further the elected members should also educate the electorate into thinking what is right. The question is why we should adopt a provision differently. There is no reason at all. The provision itself is quite necessary as explained on the previous occasion. These are substantial reasons why the House should reconsider and pass the motion that is now placed before the House. And let me assure the House, that it would not cast any reflection on the dignity of the House. On the other hand the House will only be adding to its own dignity because it would show courage to do what is right.

In regard to the criticism about procedure, I may say that it does not really matter, but I may just mention that a message about this House's decision was sent to the other House. But nobody got up to move a concurrence with the amendments proposed

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[Mr. Kayalam Paramesvaran Pillai].

by this House. I trust that this House will therefore now accept the amendment put from the chair.

Mr. Kochickal P. Balakrishnan Tampi (*Mavelikara and Kartigapalli* cum *Kunnatur*): Sir, I wish to speak a word about the reconsideration of the same Bill in this House, not that I am very much frightened by the picture drawn by Mr. Piraviperumal Pillai regarding the coming elections nor by the hectoring tone of the Law Member. We have chosen to come to this House under the existing Rules. I am quite aware that under these Rules the powers and privileges given to non-officials are limited. My point is once you have chosen to come here, once you have bargained to become honourable members of this House, you are bound by those Rules. It is not a compliment to our draftsmanship certainly when we are asked to reconsider a Bill, but all the same Rule 22 gives the power to the Government to send back a Bill to the House for reconsideration. No wider constitutional issue is involved. Government have simply exercised the power given them by Rule 22. The only matter therefore that concerns this House is the reconsideration of the Bill, and this House should consider whether the proposed amendment is right or wrong and pass judgment on it.

Mr. M. N. Paramesvaran Pillai: Which is the new point on which this House is to reconsider the Bill?

Mr. Kochickal P. Balakrishnan Tampi: Sir, I am in full agreement with Mr. M. N. Paramesvaran Pillai in thinking that the amendment has to be viewed on its merits, and it is for the House to consider whether there is any need for changing our attitude towards the Bill—not that I share the opinion of the Law Member that it is a great sacrilege to differ from the British Indian Bill. It is not one of the postulates of legal draftsmanship of this House that we should always copy or approximate to the British Indian Bill. Every member is expected to bring to bear upon each Bill and every little item of business in this House his own skill and conscientious attention and simply because the Law Member says that there is a different provision in the Bill in British India or Indo-China, we should not allow those considerations to affect our decision. I appeal to the non-official members to give their attention to the amendment concerned and not to allow themselves to be affected by considerations of any constitutional issue; because unfortunately under the rules we have no such powers, it is late in the day to think of them—and this House is precluded from raising any constitutional issues. Therefore, once again I appeal to the members of this House to reconsider the amendment on the merits, and then accept or reject it.

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President : I have now to put the amendment to the vote of the House. Before doing so, I will add one word. It is not quite correct to say that Government wanted to belittle the dignity, position or status of this House by returning this Bill with a certificate. Facts are facts. It is this very House that passed the Matches Bill containing similar provisions. It is one of its sister bodies which passed this Bill with the provisions now under reference. Government for the purpose of bringing about a uniformity of legal enactment considered it perhaps necessary to give this House another opportunity of considering the amendments on their merits and pass such judgment as they considered expedient. Surely let me assure honourable members that no assault on their dignity is involved in this case. It is merely another opportunity given to this House in the light of facts that I have already stated. In the light of those facts it is not wrong on the part of Government to come and say—please reconsider the measure.

Mr. M. N. Paramesvaran Pillai : May I respectfully submit that the Matches Duty Bill was rushed through this House and the other House.

President : I am very sorry that the honourable member should refer to any hurry in the matter of legislation. It is not a compliment to the House to say that we passed any legislative measure in a hurry and that therefore we did not look into the provisions carefully. With these few words, which I think should explain to the honourable members that no insult or indignity was involved, I now put this motion to the vote of the House.

On a raising of hands, the President declared the motion carried.

Mr. S. Piraviperumal Pillai : I demand a poll.

A poll was accordingly taken with the following results :—

AYES—15.

1. Mr. C. V. Chandrasekharan
2. ,, R. Dhanukoti Pillai
3. Dr. M. K. Gopala Pillai
4. Mr. K. N. Kesava Pillai
5. Rao Sahib Dr. N. Kunjan Pillai
6. Mr. C. Kumara Das
7. ,, Kayalam Paramesvaran Pillai
8. Rao Bahadur A. Rangaswami Aiyar
9. Mr. James Simpson
10. ,, G. B. E. Truscott
11. ,, E. P. Varghese
12. ,, Komilezhathu Sankaran
13. ,, K. Rama Varma Raja
14. ,, K. N. Kesavan Namputiripad
15. ,, Kochikkal P. Balakrishnan Tampi

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NOES—11.

1.	Mr. A. N. Visvanatha Pillai	7.	Mr. S. Piraviperumal Pillai
2.	„ K. Sankaralingam Pillai	8.	„ M. N. Paramesvaran Pillai
3.	„ N. Ramakrishna Pillai	9.	„ P. Padmanabhan Tampi
4.	„ M. P. Madhavan Pillai	10.	„ N. K. Padmanabha Pillai
5.	„ V. S. Arumukham Pillai	11.	„ K. P. Nilakanta Pillai
6.	„ Haji Hassan Yacoob Sait		

NEUTRALS—5.

1.	Mr. John Kattakayam	4.	Mr. M. N. Narayana Menon
2.	„ M. Govindan	5.	„ K. Padmanabha Panikkar
3.	„ C. M. Joseph		

The motion was declared carried and the Bill was passed in the form in which it was recommended to the House.

DEMANDS FOR SUPPLEMENTARY GRANTS.

P. W. D.—Roads Buildings and Irrigation.

Mr. G. B. E. Truscott: Sir, I move for a grant not exceeding Rs. 1,07,000 for (i) payment to the contractors for the construction of the bridge over Periyar at Neriamangalam—Rs. 37,000 and (ii) for the Leper Colony at Noornad—Rs. 70,000.

The first item, regarding the Neriamangalam bridge is for the payment of the withheld sums of money due to the contractors. According to the terms of the contract the Bill need not be paid for a period not less than six months and not more than 12 months. There were other conditions also. One condition was that the bridge should withstand two floods, but unfortunately we have not had two floods. Now the bill has become due and the money has to be paid according to the contract.

Mr. M. N. Paramesvaran Pillai: May I know from the member whether the whole amount now claimed belongs to the contractors as deposits made by them or is due to them for the work done?

Mr. G. B. E. Truscott: Most of it is retention money.

Mr. M. N. Paramesvaran Pillai: May I know how much is retention money?

Mr. G. B. E. Truscott: Practically the whole.

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